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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 NATHANIEL DWAYNE CAETANO,

12 Plaintiff,

13 v.

14 CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
15 REHABILITATION, *et al.*,

16 Defendants.
17

Case No.: 1:23-cv-1503 JLT EPG (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DENYING
PLAINTIFF'S APPLICATION TO PROCEED
IN FORMA PAUPERIS, AND DIRECTING
PLAINTIFF TO PAY THE FILING FEE

(Doc. 9)

18 Nathaniel Caetano seeks to proceed *in forma pauperis* in this action, which seeks to
19 impose liability for violations of his civil rights. (Docs. 1, 2.) This matter was referred to a United
20 States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

21 The magistrate judge found Plaintiff is subject to the three-strikes bar of 28 U.S.C. §
22 1915(g), after identifying the following cases that were dismissed prior to the filing of this action,
23 for failure to state a claim or as frivolous:

- 24 1. *Caetano v. Kings County Sheriff, et al.*, 1:22-cv-222-JLT-BAM (E.D.
25 Cal.) (dismissed March 18, 2022, as frivolous and for failure to state a
claim);
- 26 2. *Caetano v. Kings County Sheriff, et al.*, 1:22-cv-261-JLT-HBK (E.D.
27 Cal.) (dismissed April 28, 2022, as frivolous);
- 28 3. *Caetano v. Depository Trust Company, et al.*, 1:22-cv-679-JLT-SKO (E.D. Cal.)
(dismissed September 30, 2022, as frivolous and for failure to state a claim);

4. *Caetano v. Board of State and Community Corrections, et al.*, 1:22-cv-687-JLT-SKO (E.D. Cal.) (dismissed May 30, 2023, for failure to state a claim); and
5. *Caetano v. Internal Revenue Service, et al.*, 1:22-cv-837-JLT-SAB (E.D. Cal.) (dismissed June 20, 2023, as frivolous and for failure to state a claim).

(Doc. 9 at 2.) The magistrate judge also found Plaintiff fails to show he was in imminent danger of serious physical injury, such that an exception to Section 1915 applies. (*Id.* at 2–4.) Therefore, the magistrate judge recommended Plaintiff’s motion to proceed *in forma pauperis* be denied and that Plaintiff be ordered to pay the \$402 filing fee. (*Id.* at 4.)

On November 27, 2023, the Court served the Findings and Recommendations on Plaintiff and notified him that any objections were due within 14 days. (Doc. 9 at 4.) The Court advised him that “failure to file objections within the specified time may result in the waiver of rights on appeal. (*Id.* at 4–5, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014), *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991).) Plaintiff did not file any objections to the Findings and Recommendations, and the time to do so expired.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court performed a de novo review of this case. Having carefully reviewed the matter, the Court concludes the Findings and Recommendations are supported by the record and proper analysis. Accordingly, the Court **ORDERS**:

1. The Findings and Recommendations issued on November 27, 2023 (Doc. 9) are **ADOPTED** in full.
2. Plaintiff’s motion to proceed *in forma pauperis* (Doc. 2) is **DENIED**.
3. Plaintiff **SHALL** pay the \$402 filing fee in full for this action within 30 days of the date of service of this order.
4. **Plaintiff’s is advised the failure to comply with this order will result in dismissal of this action.**

IT IS SO ORDERED.

Dated: **December 21, 2023**


UNITED STATES DISTRICT JUDGE